

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

MARBLEGATE ASSET MANAGEMENT, LLC,
MARBLEGATE SPECIAL OPPORTUNITIES
MASTER FUND, L.P., MAGNOLIA ROAD
CAPITAL LP, and MAGNOLIA ROAD GLOBAL
CREDIT MASTER FUND L.P.,

Plaintiffs,

-against-

EDUCATION MANAGEMENT CORPORATION,
EDUCATION MANAGEMENT LLC, and
EDUCATION MANAGEMENT FINANCE CORP.,

Defendants.

Civil Action No. 14 Civ. 08584 (KPF)

**DECLARATION OF JAMES W. BURKE IN SUPPORT OF THE
OPPOSITION TO PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION
OF THE STEERING COMMITTEE FOR THE AD HOC COMMITTEE
OF TERM LOAN LENDERS OF EDUCATION MANAGEMENT LLC**

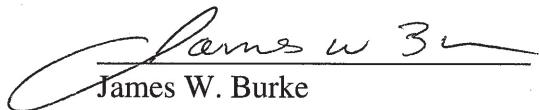
I, James W. Burke, hereby declare as follows under penalty of perjury:

1. I am an associate at the law firm of Milbank, Tweed, Hadley & McCloy LLP, attorneys for the Steering Committee for the Ad Hoc Committee of Term Loan Lenders of Education Management LLC (the "Steering Committee") in the above-captioned matter. I respectfully submit this declaration in support of the Steering Committee's Opposition to Plaintiffs' Motion for a Preliminary Injunction. This declaration is based on my own personal knowledge and knowledge acquired in the course of representing the Steering Committee in this matter.
2. I hereby testify that the following exhibits are true and correct copies of the respective documents:

- a. Attached hereto as Exhibit A, Amendment Agreement, dated September 5, 2014, including Third Amended and Restated Credit and Guaranty Agreement, dated September 5, 2014, which is attached as Annex A.
- b. Attached hereto as Exhibit B, Pledge and Security Agreement, dated June 1, 2006.
- c. Attached hereto as Exhibit C, Confidential Offering Circular, dated February 1, 2013.
- d. Attached hereto as Exhibit D, Quarterly Report of Education Management Corporation (Form 10-Q), dated May 8, 2014.
- e. Attached hereto as Exhibit E, Current Report of Education Management Corporation (Form 8-K), dated May 1, 2014.
- f. Attached hereto as Exhibit F, Waiver to Second Amended and Restated Credit and Guaranty Agreement, dated June 23, 2014.
- g. Attached hereto as Exhibit G, Current Report of Education Management Corporation (Form 8-K), dated October 30, 2014.
- h. Attached hereto as Exhibit H, excerpts from American Bar Foundation, *Commentaries on Model Debenture Indenture Provisions 1965* (1971).

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 13, 2014



James W. Burke